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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,334	04/12/2001	Bruce V. Hartley	005029.P018C	2402

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EXAMINER	
MILLER, CRAIG S	
ART UNIT	**PAPER NUMBER**
2857	

DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/834,334	Applicant(s) Hartley et al.	
	Examiner Craig Steven Miller (csm)	Group Art Unit 2857	

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on 25 September 2003.

□ This action is **FINAL.**

□ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-20 ~~is~~/are pending in the application.

Of the above claim(s) ______ is/are withdrawn from consideration.

□ Claim(s) ______ is/are allowed.

☒ Claim(s) 1-20 ~~is~~/are rejected.

☒ Claim~~(s)~~ 18 ~~is/are~~ is objected to.

□ Claim(s) ______ are subject to restriction or election requirement

Application Papers

□ The proposed drawing correction, filed on ______ is □ approved □ disapproved.

□ The drawing(s) filed on ______ is/are objected to by the Examiner

□ The specification is objected to by the Examiner.

□ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

□ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

□ All □ Some* □ None of the:

□ Certified copies of the priority documents have been received.

□ Certified copies of the priority documents have been received in Application No. ______.

□ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: ______.

Attachment(s)

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5

□ Interview Summary, PTO-413

□ Notice of Reference(s) Cited, PTO-892

□ Notice of Informal Patent Application, PTO-152

□ Notice of Draftsperson's Patent Drawing Review, PTO-948

□ Other ______

Office Action Summary

1. Claims 18 is objected to for not fully complying with the requirements of Patent Rule § 1.75 because claim 18 is not in the form of a single sentence and contains obvious typographical errors such as duplicate text. Correction is required.

2. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

> *A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.*
>
> *Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.*

3. Claims 1-20 are rejected under 35 U.S.C. 103 as being unpatentable over CyberCop Scanner by Network Associates as described in Info World article entitled "**Test Center Comparison**" (hereafter referred to as 'CyberCop') in view of InfoWorld article entitled, "**The Ins and Outs of a Network Security Audit**" (hereafter referred to as 'Security Audit').

As to claims 1, 4, 11, 12, 14, 15 CyberCop discloses the instant invention essentially as claimed with the exception that CyberCop does not specify generating a configuration baseline or a file system database for use in other utility functions. CyberCop discloses a security system having a module analyzing portions of a network for identifying network vulnerabilities (page 2, forth paragraph from last) and a memory containing security information for performing the analysis (page 3, second from last paragraph), but is not specifically disclosed as providing suggested fixes though the article implies such (see page 2, second from last paragraph). Because it is well known to repair known security flaws and because it is known to automate that which was known to done manually, In re Venner, 120 USPQ 192 (CCPA 1958), "*Furthermore, it is well settled that it is not 'invention' to broadly provide a mechanical or automatic means to replace manual activity which has accomplished the same result.*", it would have been obvious to one of ordinary skill in the art at the time the invention was made to include within the device of CyberCop an automated security flaw repair module so as to receive the obvious benefit derived therefrom such as repairing known network security flaws. As to generating a configuration baseline or a file system database for use in other utility functions, Security Audit discloses on page 4, first paragraph that network audit results should be stored for comparison to future audits (system configuration and vulnerability baseline determined by the audit). Because CyberCop and the teachings of Security Audit are within the art of network security, because Security Audit teaching maintaining reports for comparison to future audits and because such computerized reports are commonly stored in the form of a database, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include within the device of CyberCop the storing of a baseline audit configuration within a database for future reference so as to receive the expected benefits derived there from such as enhanced system flexibility and determination of network configuration and vulnerability histories absent a showing of unexpected results or synergistic effects from any particular claimed combination.

As to claims 2, 3, 8 and 19, CyberCop uses a graphical user interface (see screen snapshot from SoftSeek.com).

As to claims 5 and 13, said claims are directed towards a utility module capable of repairing detected security flaws. CyberCop does not specifically disclose automating the fixes suggested. Because it is well known to repair known security flaws, because it is well known that supervisory utilities are used to fix security flaws and because it is known to automate that which was known to done manually, In re Venner, 120 USPQ 192 (CCPA 1958), "*Furthermore, it is well settled that it is not 'invention' to broadly provide a mechanical or automatic means to replace manual activity which has accomplished the same result.*", it would have been obvious to one of ordinary skill in the art at the time the invention was made to include within the device of CyberCop an automated security flaw repair module, including a supervisory module, so as to receive the obvious benefit derived therefrom such as repairing known network security flaws absent a showing of unexpected results or synergistic effects from any particular claimed combination.

As to claims 6, 7 and 20, CyberCop supports Unix network environments (see page 10 bottom).

As to claims 9 and 16, CyberCop discloses an upgradable list of vulnerabilities (see bottom of page 4).

As to claims 10 and 18, CyberCop is disclosed as supporting password cracking (page 3 second from last paragraph) but does not specify using a dictionary. Because it is known in general to use dictionaries to break password files and because CyberCop discloses password cracking, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include within the system of CyberCop a dictionary so as to use a well known method to break password files so as to receive the obvious benefits derived therefrom such as enhanced system security absent a showing of unexpected results or synergistic effects from any particular claimed combination.

As to claim 17, said claim includes detecting if excessive system services are running. Because the theft of processing time is one of the most common byproducts of intrusions into a network, because the overwriting of logs to cover-up such theft is well known, because monitoring CPU usage real-time is extremely well known, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include within the system of CyberCop a CPU usage monitor so as to receive the obvious benefits derived therefrom such as enhanced system security absent a showing of unexpected results or synergistic effects from any particular claimed combination.

4. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Craig Steven Miller whose telephone number is (703) 305-9730. Art Unit facsimile services are now available at (703) 872-9306.

The Examiner can normally be reached on Mondays-Friday from 07:30am-4:00pm EST. Should repeated attempts to reach the Examiner be unsuccessful, the Examiner's Supervisor, Marc Hoff may be reached at (703) 308-1677.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Craig Steven Miller (ss)
28 October 2003